

NOTICE OF INTENT

Department of Environmental Quality
Office of Waste Services
Hazardous Waste Division

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Division Regulations, LAC 33:V.Chapters 1,3,5,11,15,19,21,22,23,25,27,29,30,35,38, 39,40,41,43, and 49 (Log #HW063*).

This proposed rule is identical to a federal regulation found in 40 CFR parts 260, 261, 262, 264, 265, 266, 268, 270, and 273, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

Although LAC 33:V.Subpart 1 is currently equivalent to the federal regulations, this proposed rule will update the affected sections to reflect the same order in language as the federal regulations. The basis and rationale for the proposed rule is make it easier for the regulated community to compare the state and federal regulations .

This proposed rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S. 49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

A public hearing will be held on May 26, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by HW063*. Such comments must be received no later than May 26, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of HW063*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA

70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

H. M. Strong
Assistant Secretary

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including "solid waste" and "hazardous waste," appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

* * *

[See Prior Text in A - C.6]

~~D. Exemptions, Exceptions, and/or Modifications to Otherwise Applicable Provisions of These Regulations~~ Exclusions

~~1. Reserved~~

~~2. A generator who temporarily stores hazardous wastes in an environmentally safe container, tank or containment building (see LAC 33:V.1109.E) on-site for 90 days or less is exempt from the permitting regulations except for the requirements of LAC 33:V.Chapter 11. Generators must record the date that storage began by proper marking of the container or by other methods acceptable to the administrative authority. Such temporary storage shall be in an environmentally sound manner in compliance with the technical requirements of LAC 33:V.1505, 1509.A, 1513-1517, 1525, and as applicable, with LAC 33:V.1903.A and B, 1905-1913, 1919, 2103-2109.C, and 2111-2115.~~

~~3. The owner or operator of a facility permitted, licensed, or registered to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is exempted from regulation by LAC 33:V.Subpart 1.~~

~~4. The owner or operator of a facility managing recyclable materials described in LAC 33:V.4105.B and C (except to the extent that the requirements of these regulations are referred to in LAC 33:V.Chapters 40 and 41 and except as otherwise provided in LAC 33:V.Chapter 41) is only required to comply with LAC 33:V.Chapter 41.~~

~~5. A farmer disposing of waste pesticides from his own use which are hazardous wastes is not required to comply with the standards in this Chapter or other standards in the LAC 33:V.Chapters 3, 5, 7, 9, 15, 17, 19, 21, 23, 25, 27, 28, 29, 31, 32, 33, 35, 37, and 43 for those wastes, provided he triple rinses each emptied pesticide container in accordance with the provisions of LAC 33:V.109.Empty Container.3 and disposes of the pesticide residues in a manner consistent with the disposal instructions on the pesticide label.~~

~~6. The owner or operator of a totally enclosed treatment facility as defined by LAC 33:V.109 is exempt from the requirements of LAC 33:V.Chapters 15, 17, 18, 19, 21, 23, 25,~~

~~26, 28, 29, 32, 33, 35, 37, and 43.~~

~~7. The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined by LAC 33:V.109 is exempt from the requirements of LAC 33:V.Chapters 15, 17, 18, 19, 21, 23, 25, 26, 27, 28, 29, 31, 32, 33, 35, 37, and 43.~~

~~8. Persons who respond immediately to contain or treat a spill of hazardous waste or material, which when spilled becomes a hazardous waste, are exempt from these regulations. The exception to such activities is the appropriate requirements of LAC 33:V.1511 and 1513. This Paragraph only applies to activities taken in immediate response to a spill. After the immediate response activities are completed, the applicable sections of these regulations apply fully to the management and disposal of any spill residue or debris which is a hazardous waste.~~

~~9. The addition of absorbent material to waste in a container (defined in LAC 33:V.109) or the addition of waste to absorbent material in a container are exempt from these regulations, provided that these actions occur at the time waste is first placed in the container and are in compliance with LAC 33:V.1517.B, 1903.B, and 2105.~~

~~10. Household waste, including household waste that has been collected, transported, stored, treated, disposed of, recovered (e.g. refuse-derived fuel) or reused. "Household waste" means any waste material (including garbage, trash and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day use recreation areas). A resource recovery facility managing municipal solid waste shall not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this Subpart if such facility:~~

~~a. receives and burns only household waste (from single and multiple dwellings, hotels, motels, and other residential sources); and~~

~~b. receives and burns solid waste from commercial or industrial sources that does not contain hazardous waste; and~~

~~c. does not accept hazardous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.~~

~~11. Solid wastes generated by growing and harvesting agricultural crops and raising animals, including animal manures which are returned to the soils as fertilizers, are exempt from these regulations.~~

~~12. Mining overburden returned to the mine site is exempt from these regulations.~~

~~13. Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, except as provided in LAC 33:V.3025 for facilities that burn or process hazardous waste are exempt from these regulations.~~

~~14. Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy are exempt from the regulations.~~

~~15. Wastes which fail the test for the Toxicity Characteristic because chromium is present or are listed in LAC 33:V.Chapter 49, because of the presence of chromium, which do not~~

~~fail the test for the Toxicity Characteristic for any other constituent, or are not listed due to the presence of any other constituent and which do not fail the test for any other characteristic, are exempt from these regulations if it is shown by a waste generator or waste generators that:~~

~~_____ a. the chromium in the waste is exclusively (or nearly exclusively) trivalent chromium;~~

~~_____ b. the waste is generated from an industrial process which uses exclusively (or nearly exclusively) trivalent chromium and the process does not generate hexavalent chromium; and~~

~~_____ c. the waste is typically and frequently managed in non-oxidizing environments.~~

~~_____ 16. The following specific wastes which meet the standard in LAC 33:V.105.D.15 (so long as they do not fail the test for the Toxicity Characteristic for any other constituent and do not exhibit any other characteristic) are exempt from these regulations:~~

~~_____ a. chrome (blue) trimmings and shavings, buffing dust, sewer screenings, and wastewater treatment sludges generated by the leather tanning and finishing industry including hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retain/wet finish, no beamhouse, through-the-blue, and shearing;~~

~~_____ b. wastewater treatment sludges generated by the leather tanning and finishing industry including hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, and through-the-blue;~~

~~_____ c. waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries; and~~

~~_____ d. wastewater treatment sludges from the production of TiO₂ pigment using chromium-bearing ores by the chloride process.~~

~~_____ 17. Solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock and overburden from the mining of uranium ore), except as provided in LAC 33:V.3025 for facilities that burn or process hazardous waste is exempt from these regulations. For purposes of LAC 33:V.105.D.17, beneficiation of ores and minerals is restricted to the following activities: crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water and/or carbon dioxide; roasting; autoclaving, and/or chlorination in preparation for leaching (except where the roasting and/or autoclaving and/or chlorination/leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; flotation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat, tank, and in situ leaching. For the purposes of LAC 33:V.105.D.17, solid waste from the processing of ores and minerals will include only the following wastes:~~

~~_____ a. slag from primary copper processing;~~

~~_____ b. slag from primary lead processing;~~

~~_____ c. red and brown muds from bauxite refining;~~

~~_____ d. phosphogypsum from phosphoric acid production;~~

~~_____ e. slag from elemental phosphorus production;~~

- ~~_____ f. gasifier ash from coal gasification;~~
- ~~_____ g. process wastewater from coal gasification;~~
- ~~_____ h. calcium sulfate wastewater treatment plant sludge from primary copper processing;~~
- ~~_____ i. slag tailings from primary copper processing;~~
- ~~_____ j. fluorogypsum from hydrofluoric acid production;~~
- ~~_____ k. process wastewater from hydrofluoric acid production;~~
- ~~_____ l. air pollution control dust/sludge from iron blast furnaces;~~
- ~~_____ m. iron blast furnace slag;~~
- ~~_____ n. treated residue from roasting/leaching of chrome ore;~~
- ~~_____ o. process wastewater from primary magnesium processing by the anhydrous process;~~
- ~~_____ p. process wastewater from phosphoric acid production;~~
- ~~_____ q. basic oxygen furnace and open hearth furnace air pollution control dust/sludge from carbon steel production;~~
- ~~_____ r. basic oxygen furnace and open hearth furnace slag from carbon steel production;~~
- ~~_____ s. chloride process waste solids from titanium tetrachloride production; and~~
- ~~_____ t. slag from primary zinc processing;~~
- ~~_____ 18. Cement kiln dust waste, except as provided in LAC 33:V.3025 for facilities that burn or process hazardous waste is exempt from these regulations.~~
- ~~_____ 19. Solid waste that consists of discarded arsenical-treated wood or wood products which fails the test for the Toxicity Characteristic for Hazardous Waste Codes D004) D017 and which is not a hazardous waste for any other reason, if the waste is generated by persons who utilize the arsenical-treated wood and wood product for these materials' intended end use, is exempt from these regulations.~~
- ~~_____ 20. All hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment-manufacturing unit is exempt from these regulations, until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials.~~
- ~~_____ 21. Samples of solid waste, water, soil, or air, which are collected for the sole purpose of testing to determine characteristics or composition are exempt from these regulations, when:~~
 - ~~_____ a. the sample complies with LAC 33:V.105.D.22 and is being transported to a laboratory for the purpose of testing;~~

- ~~_____ b. the sample is being transported back to the sample collector after testing;~~
- ~~_____ c. the sample is being stored by the sample collector before transport to a laboratory for testing;~~
- ~~_____ d. the sample is being stored in a laboratory after testing but before it is returned to the sample collector; or~~
- ~~_____ e. the sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary):~~

~~_____ 22. In order to qualify for the exemption in LAC 33:V.105.D.21, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:~~

- ~~_____ a. comply with LDPS, U.S. Postal Service (USPS), or any other applicable shipping requirements; or~~
- ~~_____ b. comply with the following requirements if the sample collector determines that LDPS, USPS, or other shipping requirements do not apply to the shipment of the sample;~~
- ~~_____ c. assure that the following information accompanies the sample:~~
 - ~~_____ i. the sample collector's name, mailing address, and telephone number;~~
 - ~~_____ ii. the laboratory's name, mailing address, and telephone number;~~
 - ~~_____ iii. the quantity of the sample;~~
 - ~~_____ iv. the date of shipment; and~~
 - ~~_____ v. a description of the sample.~~
- ~~_____ d. package the sample so that it does not leak, spill, or vaporize from its packaging; and~~
- ~~_____ e. this exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in LAC 33:V.105.D.21.~~

~~_____ 23. Spent pickle liquor which is reused in wastewater treatment at a facility holding an NPDES permit, or which is being accumulated, stored, or physically, chemically or biologically treated before such reuse is exempt from these regulations:~~

~~_____ 24. Effluent discharges from a properly permitted NPDES train are exempt from these regulations provided previously separated hazardous wastes are not intentionally added to the train and the facility meets the requirements of the NPDES permit.~~

~~_____ 25. Wastewaters covered under the mixture rule in LAC 33:V.4905.~~

~~_____ 26. The requirements of this Chapter apply to a person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries Act only to the extent that they are included in a hazardous waste permit granted to such a person. These regulations do apply to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea.~~

~~_____ 27. The requirements of this Chapter apply to the owner or operator of a POTW~~

(Public Owned Treatment Works) which treats, stores, or disposes of hazardous waste only to the extent that they are included in a hazardous waste permit by rule granted to such a person under LAC 33:V.305.C.2.

28. In accordance with the standards and criteria below and the procedures in LAC 33:V.105.K, the administrative authority may determine on a case-by-case basis that the following recycled materials are not solid wastes. The administrative authority may grant requests for a variance from classifying as a solid waste those materials that are accumulated speculatively without sufficient amounts being recycled, as defined in LAC 33:V.109, if the applicant demonstrates that sufficient amounts of the material will be recycled or transferred for recycling in the following year. If a variance is granted, it is valid only for the following year, but can be renewed on an annual basis by filing a new application. The administrative authority's decision will be based on the following standards and criteria:

- a. the manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to occur (for example, because of past practice, market factors, the nature of the material, or contractual arrangements for recycling);
- b. the reason that the applicant has accumulated the material for one or more years without recycling 75 percent of the volume accumulated at the beginning of the year;
- c. the quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;
- d. the extent to which the material is handled to minimize loss;
- e. other related factors.

29. In accordance with the standards and criteria below and the procedures in LAC 33:V.105.K, the administrative authority may determine on a case-by-case basis that the following recycled materials are not solid wastes. The administrative authority may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused as feedstock within the original process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:

- a. how economically viable the production process would be if it were to use virgin materials, rather than reclaimed materials;
- b. the prevalence of the practice on an industry-wide basis;
- c. the extent to which the material is handled before reclamation to minimize loss;
- d. the time periods between generating the material and its reclamation and between reclamation and return to the original primary production process;
- e. the location of the reclamation operation in relation to the production process;
- f. whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;
- g. whether the person who generates the material also reclaims it;

_____ h. other relevant factors.

_____ 30. In accordance with the standards and criteria below and the procedures in LAC 33:V.105.K, the administrative authority may determine on a case-by-case basis that the following recycled materials are not solid wastes. The administrative authority may grant requests for a variance from classifying as a solid waste those materials that have been reclaimed but must be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is commodity-like (even though it is not yet a commercial product, and has to be reclaimed further). This determination will be based on the following factors:

_____ a. the degree of processing the material has undergone and the degree of further processing that is required;

_____ b. the value of the material after it has been reclaimed;

_____ c. the degree to which the reclaimed material is like an analogous raw material;

_____ d. the extent to which an end market for the reclaimed material is guaranteed;

_____ e. the extent to which the reclaimed material is handled to minimize loss;

_____ f. other relevant factors.

_____ 31. In accordance with the standards and criteria in LAC 33:V.109 (definition of "boiler"), and the procedures in LAC 33:V.105.K the administrative authority may determine on a case-by-case basis that certain enclosed devices using controlled flame combustion are boilers, even though they do not otherwise meet the definition of boiler contained in LAC 33:V.109 after considering the following criteria:

_____ a. the extent to which the unit has provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

_____ b. the extent to which the combustion chamber and energy recovery are of integral design; and

_____ c. the efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

_____ d. the extent to which exported energy is utilized; and

_____ e. the extent to which the device is in common and customary use as a "boiler" functioning primarily to produce steam, heated fluids, or heated gases; and

_____ f. other factors, as appropriate.

_____ 32. Additional regulation of certain hazardous waste recycling activities on a case-by-case basis. The administrative authority may decide on a case-by-case basis that persons accumulating or storing the recyclable materials described in LAC 33:V.4105.C.3 should be regulated under Subchapter A of LAC 33:V.Chapter 41. The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained or because the materials being accumulated or stored together are incompatible. The procedures for this decision are set forth in LAC 33:V.105.L. In making this decision, the administrative authority will consider the following factors:

_____ a. the types of materials accumulated or stored and the amounts

accumulated or stored;

b. the method of accumulation or storage;

c. the length of time the materials have been accumulated or stored before being reclaimed;

d. whether any contaminants are being released into the environment, or are likely to be so released; and

e. other relevant factors.

33. The following solid wastes are not hazardous even though they are generated from the treatment, storage, or disposal of hazardous waste, unless they exhibit one or more of the characteristics of hazardous wastes:

a. waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC codes 331 and 332);

b. waste from burning any of the materials in LAC 33:V.4105.B.10—12;

c. nonwastewater residues, such as slag, resulting from high-temperature metals recovery (HTMR) processing of K061, K062, or F006 waste, in units identified as (1) rotary kilns, (2) flame reactors, (3) electric furnaces, (4) plasma arc furnaces, (5) slag reactors, (6) rotary hearth furnace/electric furnace combinations, (7) industrial furnaces (as defined in LAC 33:V.109), that are disposed of in subtitle D units (as defined in 40 CFR parts 257 and 258); provided that these residues meet the generic exclusion levels identified in the tables in this Paragraph for all constituents and exhibit no characteristics of hazardous waste.

i. Testing requirements must be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues must be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming this exclusion in an enforcement action will have the burden of proving, by clear and convincing evidence, that the residue meets all of the exclusion requirements.

Constituent	Maximum for any single composite sample-TCLP (mg/l)
Generic Exclusion Levels for K061 and K062 Nonwastewater HTMR Residues	
Antimony	0.10
Arsenic	0.050
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33

Constituent	Maximum for any single composite sample-TCLP (mg/l)
Generic Exclusion Levels for K061 and K062 Nonwastewater HTMR Residues	
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

Generic Exclusion Levels for F006 Nonwastewater HTMR Residues	
Antimony	0.10
Arsenic	0.050
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total) (mg/kg)	1.8
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020

Zinc	70
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~~ii. A one-time notification and certification must be placed in the facility's files and sent to the administrative authority for K061, K062, or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to subtitle D units. The notification and certification that is placed in the generators' or treaters' files must be updated if the process or operation generating the waste changes and/or if the subtitle D unit receiving the waste changes. However, the generator or treater needs only to notify the EPA region or an authorized state on an annual basis if such changes occur. Such notification and certification should be sent to the EPA region or authorized state by the end of the calendar year, but no later than December 31. The notification must include the following information:~~

~~(a). the name and address of the subtitle D unit (as defined in 40 CFR Parts 257 and 258) receiving the waste shipment;~~

~~(b). the EPA hazardous waste number and treatability group at the initial point of generation;~~

~~(c). the treatment standards applicable to the waste at the initial point of generation, and~~

~~(d). The certification must be signed by an authorized representative and must state as follows: "I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of hazardous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."~~

~~d. biological treatment sludge from the treatment of one of the following wastes listed in LAC 33:V.4901.C organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K156), and wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K157):~~

~~34. Pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless they are accumulated speculatively as defined in LAC 33:V.109, are exempt from these regulations:~~

~~35. Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in LAC 33:V.109 (see definition of solid waste), is exempt from otherwise applicable portions of these regulations, except that storage of such materials shall be in an environmentally sound manner.~~

~~36. In accordance with the standards and criteria below, the administrative authority may determine on a case-by-case basis that the following recycled materials are not solid waste: the administrative authority may grant a request for a variance from classifying as a solid waste those sludges and by-products that are being reclaimed which are a hazardous waste only because they exhibit a characteristic of a hazardous waste that is:~~

~~a. accumulated speculatively without sufficient amounts being recycled, as~~

defined in LAC 33:V.109, if the applicant demonstrated that sufficient amounts of the material will be recycled or transferred for recycling in the following year. If a variance is granted, it is valid only for the following year, but can be renewed on an annual basis by filing a new application. The administrative authority's decisions will be based on the following standards and criteria:

- ~~_____ i. the manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to occur (for example, because of past practice, market factors, the nature of the material, or contractual arrangements for recycling);~~
- ~~_____ ii. the reason that the applicant has accumulated the material for one or more years without recycling 75 percent of the volume accumulated at the beginning of the year;~~
- ~~_____ iii. the quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;~~
- ~~_____ iv. the extent to which the material is handled to minimize loss;~~
- ~~_____ v. other related factors.~~

~~_____ Or,~~

~~_____ b. reclaimed and then reused as feedstock within the original primary production process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:~~

- ~~_____ i. how economically viable the production process would be if it were to use virgin materials, rather than reclaimed materials;~~
- ~~_____ ii. the prevalence of the practice on an industry-wide basis;~~
- ~~_____ iii. the extent to which the material is handled before reclamation to minimize loss;~~
- ~~_____ iv. the time periods between generating the material and its reclamation and between reclamation and return to the original primary production process;~~
- ~~_____ v. the location of the reclamation operation in relation to the production process;~~
- ~~_____ vi. whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;~~
- ~~_____ vii. whether the person who generates the material also reclaims it;~~
- ~~_____ viii. other relevant factors.~~

~~_____ Or,~~

~~_____ c. reclaimed but must be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is commodity-like (even though it is not yet a commercial product, and has to be reclaimed further). This determination will be based on the following factors:~~

- ~~_____ i. the degree of processing the material has undergone and the degree of further processing that is required;~~

- ~~_____~~ ii. the value of the material after it has been reclaimed;
- ~~_____~~ iii. the degree to which the reclaimed material is like an analogous raw material;
- ~~_____~~ iv. the extent to which an end market for the reclaimed material is guaranteed;
- ~~_____~~ v. the extent to which the reclaimed material is handled to minimize loss;
- ~~_____~~ vi. other relevant factors.

~~_____~~ Or,

~~_____~~ d. secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

- ~~_____~~ i. only tank storage is involved, and the entire process through completion or reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;
- ~~_____~~ ii. reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);
- ~~_____~~ iii. the secondary materials are never accumulated in such tanks for over 12 months without being reclaimed; and
- ~~_____~~ iv. the reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal.

~~_____~~ 37. Treatability Study Samples

~~_____~~ a. Except as provided in LAC 33:V.105.D.37.b, persons who generate or collect samples for the purpose of conducting treatability studies as defined in LAC 33:V.109 are not subject to any requirement of LAC 33:V.Chapter 11, 13, or 49, or to the notification requirements of LAC 33:V.105.A, nor are such samples included in the quantity determinations of LAC 33:V.3903-3917 and LAC 33:V.1109.E.7 when:

- ~~_____~~ i. the sample is being collected and prepared for transportation by the generator or sample collector; or
- ~~_____~~ ii. the sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or
- ~~_____~~ iii. the sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.

~~_____~~ b. The exemption in LAC 33:V.105.D.37.a is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that the following requirements are met:

- ~~_____~~ i. The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with non-acute hazardous waste, 1000 kg of non-acute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, or 2,500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream.
- ~~_____~~ ii. The mass of each sample shipment does not exceed 10,000 kg;

~~the 10,000 kg quantity may be all media contaminated with non-acute hazardous waste, or may include 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of hazardous waste, and 1 kg of acute hazardous waste.~~

~~_____ iii. The sample is packaged so that it will not leak, spill, or vaporize from its packaging during shipment, and the requirements of LAC 33:V.105.D.37.b.iii.(a) or (b) are met:~~

~~_____ (a). The transportation of each sample shipment complies with the shipping requirements of the Department of Transportation and Development or its successor agency and the U.S. Postal Service, or any other applicable shipping requirements:~~

~~_____ (b). If the Department of Transportation and Development or its successor agency, the U.S. Postal Service, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample:~~

~~_____ (i). the name, mailing address, and telephone number of the originator of the sample;~~

~~_____ (ii). the name, address, and telephone number of the facility that will perform the treatability study;~~

~~_____ (iii). the quantity of the sample;~~

~~_____ (iv). the date of shipment; and~~

~~_____ (v). a description of the sample, including its EPA Hazardous Waste Number.~~

~~_____ iv. The sample is shipped to a laboratory or testing facility that is exempt under LAC 33:V.105.D.38 or has an appropriate LAC 33:V.Subpart 1 permit or interim status:~~

~~_____ v. The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:~~

~~_____ (a). copies of the shipping documents;~~

~~_____ (b). a copy of the contract with the facility conducting the treatability study; and~~

~~_____ (c). documentation showing:~~

~~_____ (i). the amount of waste shipped under this exemption;~~

~~_____ (ii). the name, address, and EPA identification number of the laboratory or testing facility that received the waste;~~

~~_____ (iii). the date the shipment was made; and~~

~~_____ (iv). whether or not unused samples and residues were returned to the generator.~~

~~_____ vi. The generator reports the information required under LAC 33:V.105.D.37.b.v.(c) in its biennial report.~~

~~_____ c. The administrative authority may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The administrative authority may grant requests on a case-by-case basis for quantity limits in excess of those specified in Subsection D.37.b.i of this Section for up to an additional 5,000 kg of media~~

contaminated with non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste and 1 kg of acute hazardous waste:

~~i. in response to requests for authorization to ship, store, and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), the size of the unit undergoing testing (particularly in relation to scale-up considerations), the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations;~~

~~ii. in response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies when: there has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of a previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an on-going treatability study to determine final specifications for treatment;~~

~~iii. The additional quantities and time frames allowed in Subsection D.37.c.i and ii of this Section are subject to all the provisions in Subsection D.37.a and b.iii and vi of this Section. The generator or sample collector must apply to the administrative authority and provide in writing the following information:~~

~~(a). the reason why the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;~~

~~(b). documentation accounting for all samples of hazardous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;~~

~~(c). a description of the technical modifications or change in specifications that will be evaluated and the expected results;~~

~~(d). if such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and~~

~~(e). such other information that the administrative authority considers necessary.~~

~~38. Samples Undergoing Treatability Studies at Laboratories and Testing Facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to LAC 33:V.Subpart 1 requirements) are not subject to any requirement of LAC 33:V.Chapters 3, 5, 11, 13, 15, 22, 41, and 43, or to the notification requirements of LAC 33:V.105.A, provided that the conditions of LAC 33:V.105.D.38.a—k are met. A mobile treatment unit may qualify as a testing~~

facility subject to LAC 33:V.105.D.38.a-k. ~~Where a group of mobile treatment units is located at the same site, the limitations specified in LAC 33:V.105.D.38.a-k apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit.~~

~~a. No less than 45 days before conducting treatability studies, the facility notifies the administrative authority in writing that it intends to conduct treatability studies under this Paragraph.~~

~~b. The laboratory or testing facility conducting the treatability study has an EPA identification number.~~

~~c. No more than a total of 10,000 kg of "as received" media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, or 250 kg of other "as received" hazardous waste is subjected to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.~~

~~d. The quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which may include 10,000 kg of media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of non-acute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials (including nonhazardous solid waste) added to "as received" hazardous waste.~~

~~e. No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.~~

~~f. The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.~~

~~g. The facility maintains records for three years after completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:~~

~~i. the name, address, and EPA identification number of the generator or sample collector of each waste sample;~~

~~ii. the date shipment was received;~~

~~iii. the quantity of waste accepted;~~

~~iv. the quantity of "as received" waste in storage each day;~~

~~v. the date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;~~

~~vi. the date the treatability study was concluded; and~~

~~vii. the date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated~~

facility, the name of the facility and the EPA identification number:

~~h. The facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.~~

~~i. The facility prepares and submits a report to the administrative authority by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:~~

~~i. the name, address, and EPA identification number of the facility conducting the treatability studies;~~

~~ii. the types (by process) of treatability studies conducted;~~

~~iii. the names and addresses of persons for whom studies have been conducted (including their EPA identification numbers);~~

~~iv. the total quantity of waste in storage each day;~~

~~v. the quantity and types of waste subjected to treatability studies;~~

~~vi. when each treatability study was conducted; and~~

~~vii. the final disposition of residues and unused sample from each treatability study.~~

~~j. The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under LAC 33:V.109.Hazardous Waste and, if so, are subject to LAC 33:V.Chapters 3, 5, 11, 13, 15, 22, 41, 43, and 49, unless the residue and unused samples are returned to the sample originator under the LAC 33:V.105.D.37 exemption.~~

~~k. The facility notifies the administrative authority by letter when the facility is no longer planning to conduct any treatability studies at the site.~~

~~39. Petroleum-contaminated media and debris that fail the test for the Toxicity Characteristic (Hazardous Waste Numbers D016—D043 only) and are subject to the corrective action regulations under Underground Storage Tanks rules and regulations (LAC 33:XI) are exempt from these regulations.~~

~~40. PCB wastes regulated under Toxic Substance Control Act: PCB-containing dielectric fluid and electric equipment containing such fluid authorized for use and regulated by the United States Environmental Protection Agency that are hazardous only because they fail the test for the Toxicity Characteristic (Hazardous Waste Numbers D018—D043 only) are exempt from regulation under LAC 33:V.Subpart 1.~~

~~41. Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and industrial air conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerants are stored in an environmentally sound manner and are reclaimed for further use, are exempt from these regulations.~~

~~42. Injected groundwater that is hazardous only because it exhibits the Toxicity Characteristic (Hazardous Waste Codes D018—D043 only) in LAC 33:V.4903 that is reinjected through an underground injection well pursuant to free phase hydrocarbon recovery operations~~

~~undertaken at petroleum refineries, petroleum marketing terminals, petroleum bulk plants, petroleum pipelines, and petroleum transportation spill sites until January 25, 1993. This extension applies to recovery operations in existence, or of which contracts have been issued, on or before March 25, 1991. For groundwater returned through infiltration galleries from such operations at petroleum refineries, marketing terminals, and bulk plants, until January 1, 1993. New operations involving injection wells (beginning after March 25, 1991) will qualify for this compliance date extension (until January 25, 1993) only if:~~

~~_____ a. operations are performed pursuant to a written state agreement that includes a provision to assess the groundwater and the need for further remediation once the free phase recovery is completed; and~~

~~_____ b. a copy of the written agreement has been submitted to: Characteristics Section (OS-333), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.~~

~~_____ 43. Materials which are not solid wastes. The following materials are not solid wastes for the purpose of this Part:~~

~~_____ a. domestic sewage and any mixture of domestic sewage and other wastes that pass through a sewer system to a publicly owned treatment works (POTW) for treatment. "Domestic sewage" means untreated sanitary wastes that pass through a sewer system;~~

~~_____ b. industrial wastewater discharges that are point source discharges subject to regulation under section 402 of the Clean Water Act, as amended;~~

~~_____ [Comment: This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored, or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.]~~

~~_____ c. irrigation return flows;~~

~~_____ d. source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended 42 U.S.C. 2011 et seq.;~~

~~_____ e. material subjected on in-situ mining techniques which are not removed from the ground as part of the extraction process;~~

~~_____ f. nonwastewater splash condenser dross residue from the treatment of K061 in high-temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery; and~~

~~_____ g. recovered oil from petroleum refining, exploration and production, and from transportation incident thereto, which is to be inserted into the petroleum refining process (SIC Code 2911) at or before a point (other than direct insertion into a coker) where contaminants are removed. This exclusion applies to recovered oil stored or transported prior to insertion, except that the oil must not be stored in a manner involving placement on the land, and must not be accumulated speculatively, before being so recycled. Recovered oil is oil that has been reclaimed from secondary materials (such as wastewater) generated from normal petroleum refining, exploration and production, and transportation practices. Recovered oil includes oil that is recovered from refinery wastewater collection and treatment systems, oil recovered from oil and gas drilling operations, and oil recovered from wastes removed from crude oil storage tanks.~~

~~Recovered oil does not include (among other things) oil-bearing hazardous wastes listed in LAC 33:V.4901 (e.g., K048-K052, F037, F038). However, oil recovered from such wastes may be considered recovered oil. Recovered oil also does not include used oil as defined in LAC 33:V.4001.~~

~~44. EPA Hazardous Waste Nos. K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the Toxicity Characteristic (TC) specified in LAC 33:V.4903.E when, subsequent to generation, these materials are recycled to coke ovens to the tar recovery process as a feedstock to produce coal tar, or are mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens, tar recovery, or refining processes, or are mixed with coal tar.~~

~~45. Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose and wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood.~~

~~46. Non-terne-plated used oil filters that are not mixed with wastes listed in LAC 33:V.4901 if these oil filters have been gravity hot-drained using one of the following methods:~~

~~a. puncturing the filter anti-drain back valve or the filter dome end and hot-draining;~~

~~b. hot-draining and crushing;~~

~~c. dismantling and hot-draining; or~~

~~d. any other equivalent hot-draining method that will remove used oil.~~

~~47. Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.~~

~~48. The following wastes are exempt from regulation under this Subpart, except as specified in LAC 33:V.Chapter 38, and therefore, are not fully regulated as hazardous waste. The wastes listed in this Section are subject to regulation under LAC 33:V.Chapter 38:~~

~~a. batteries as described in LAC 33:V.3803;~~

~~b. pesticides as described in LAC 33:V.3805; and~~

~~c. thermostats as described in LAC 33:V.3807.~~

1. Materials That Are Not Solid Wastes. The following materials are not solid wastes for the purpose of this Section:

a. i. domestic sewage; and

ii. any mixture of domestic sewage and other wastes that pass through a sewer system to a publicly owned treatment works (POTW) for treatment. "Domestic sewage" means untreated sanitary wastes that pass through a sewer system;

b. industrial wastewater discharges that are point source discharges subject to regulation under section 402 of the Clean Water Act, as amended;

[Comment: This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored, or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.]

- c. irrigation return flows;
 - d. source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.;
 - e. material subjected to in-situ mining techniques that are not removed from the ground as part of the extraction process;
 - f. pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless they are accumulated speculatively as defined in LAC 33:V.109.Solid Waste;
 - g. spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in LAC 33:V.109.Solid Waste;
 - h. secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:
 - i. only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;
 - ii. reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);
 - iii. the secondary materials are never accumulated in such tanks for over 12 months without being reclaimed; and
 - iv. the reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal;
 - i. spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and
 - ii. wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood;
 - j. EPA Hazardous Waste Numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the toxicity characteristic (TC) specified in LAC 33:V.4903.E when, subsequent to generation, these materials are recycled to coke ovens, or to the tar recovery process as a feedstock to produce coal tar, or mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens, tar recovery, or refining processes, or mixed with coal tar;
 - k. nonwastewater splash condenser dross residue from the treatment of K061 in high-temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery; and
 - l. recovered oil from petroleum refining, exploration and production, and from transportation incident thereto, which is to be inserted into the petroleum refining process (SIC Code 2911) at or before a point (other than direct insertion into a coker) where contaminants are removed. This exclusion applies to recovered oil stored or transported prior to insertion, except that the oil must not be stored in a manner involving placement on the land, and

must not be accumulated speculatively, before being so recycled. Recovered oil is oil that has been reclaimed from secondary materials (such as wastewater) generated from normal petroleum refining, exploration and production, and transportation practices. Recovered oil includes oil that is recovered from refinery wastewater collection and treatment systems, oil recovered from oil and gas drilling operations, and oil recovered from wastes removed from crude oil storage tanks. Recovered oil does not include (among other things) oil-bearing hazardous wastes listed in LAC 33:V.4901 (e.g., K048-K052, F037, F038). However, oil recovered from such wastes may be considered recovered oil. Recovered oil also does not include used oil as defined in LAC 33:V.4001.

2. Solid Wastes That Are Not Hazardous Wastes. The following solid wastes are not hazardous wastes:

a. household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered (e.g., refuse-derived fuel), or reused. "Household waste" means any material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day use recreation areas). A resource recovery facility managing municipal solid waste shall not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this Subpart if such facility:

i. receives and burns only:

(a). household waste (from single and multiple dwellings, hotels, motels, and other residential sources); and

(b). solid waste from commercial or industrial sources that does not contain hazardous waste; and

ii. such facility does not accept hazardous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility:

b. solid wastes generated by any of the following and which are returned to the soils as fertilizers:

i. the growing and harvesting of agricultural crops; and

ii. the raising of animals, including animal manures;

c. mining overburden returned to the mine site;

d. fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste, generated primarily from the combustion of coal or other fossil fuels, except as provided in LAC 33:V.3025 for facilities that burn or process hazardous waste;

e. drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy;

f. wastes that fail the test for the toxicity characteristic because chromium is present or are listed in LAC 33:V.Chapter 49, due to the presence of chromium, which do not fail the test for the toxicity characteristic for any other constituent, or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if it is

shown by a waste generator or waste generators that:

i. the chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and

ii. the waste is generated from an industrial process which uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

iii. the waste is typically and frequently managed in nonoxidizing environments;

g. specific waste which meet the standard in Subsection D.1.f.i, ii and iii (so long as they do not fail the test for the toxicity characteristic for any other constituent, and do not exhibit any other characteristic) are:

i. chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

ii. chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

iii. buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue.

iv. sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

v. wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

vi. wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue.

vii. waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries, and

viii. wastewater treatment sludges from the production of TiO₂ pigment using chromium-bearing ores by the chloride process;

h. solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock, and overburden from the mining of uranium ore), except as provided in LAC 33:V.3025 for facilities that burn or process hazardous waste. For purposes of this Paragraph, beneficiation of ores and minerals is restricted to the following activities: crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water and/or carbon dioxide;

roasting, autoclaving, and/or chlorination in preparation for leaching (except where the roasting and/or autoclaving and/or chlorination/leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; flotation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat, tank, and in situ leaching. For the purpose of this Paragraph, solid waste from the processing of ores and minerals will include only the following wastes:

- i. slag from primary copper processing;
- ii. slag from primary lead processing;
- iii. red and brown muds from bauxite refining;
- iv. phosphogypsum from phosphoric acid production;
- v. slag from elemental phosphorus production;
- vi. gasifier ash from coal gasification;
- vii. process wastewater from coal gasification;
- viii. calcium sulfate wastewater treatment plant sludge

from primary copper processing;

- ix. slag tailings from primary copper processing;
- x. fluorogypsum from hydrofluoric acid production;
- xi. process wastewater from hydrofluoric acid

production;

- xii. air pollution control dust/sludge from iron blast

furnaces;

- xiii. iron blast furnace slag;
- xiv. treated residue from roasting/leaching of chrome

ore;

- xv. process wastewater from primary magnesium processing by the

anhydrous process;

- xvi. process wastewater from phosphoric acid production;
- xvii. basic oxygen furnace and open hearth furnace air

pollution control dust/sludge from carbon steel production;

- xviii. basic oxygen furnace and open hearth furnace slag

from carbon steel production;

- xix. chloride process waste solids from titanium

tetrachloride production; and

- xx. slag from primary zinc processing;

i. cement kiln dust waste, except as provided in LAC 33:V.3025 for facilities that burn or process hazardous waste;

j. solid waste that consists of discarded arsenical-treated wood or wood products which fails the test for the toxicity characteristic for Hazardous Waste Codes D004) D017 and which is not a hazardous waste for any other reason, if the waste is generated by persons who utilize the arsenical-treated wood and wood product for these materials' intended end use;

k. petroleum-contaminated media and debris that fail the test for the toxicity characteristic (Hazardous Waste Numbers D018-D043 only) and are subject to the corrective action regulations under underground storage tanks rules and regulations (LAC 33:XI);

l. injected groundwater that is hazardous only because it exhibits the toxicity characteristic (Hazardous Waste Codes D018-D043 only) in LAC 33:V.4903 and that is re-injected through an underground injection well pursuant to free phase hydrocarbon recovery operations undertaken at petroleum refineries, petroleum marketing terminals, petroleum bulk plants, petroleum pipelines, and petroleum transportation spill sites until January 25, 1993. This extension applies to recovery operations in existence, or for which contracts have been issued, on or before March 25, 1991. For groundwater returned through infiltration galleries from such operations at petroleum refineries, marketing terminals, and bulk plants, until January 1, 1993. New operations involving injection wells (beginning after March 25, 1991) will qualify for this compliance date extension (until January 25, 1993) only if:

i. operations are performed pursuant to a written state agreement that includes a provision to assess the groundwater and the need for further remediation once the free phase recovery is completed; and

ii. a copy of the written agreement has been submitted to: Characteristics Section (OS-333), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460;

m. used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use;

n. non-terne plated used oil filters that are not mixed with wastes listed in LAC 33:V.4901 if these oil filters have been gravity hot-drained using one of the following

methods:

i. puncturing the filter anti-drain back valve or the filter dome end and hot-draining;

ii. hot-draining and crushing;

iii. dismantling and hot-draining; or

iv. any other equivalent hot-draining method that will remove used oil; and

o. used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

3. Hazardous Wastes That Are Exempted from Certain Regulations. A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment-manufacturing unit, is not subject to regulation under LAC 33:V.Subpart 1 or to the notification requirements of Subsection A of this Section, until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for

manufacturing, or for storage or transportation of product or raw materials.

4. Samples

a. Except as provided in Subsection D.4.b of this Section, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of LAC 33:V.Subpart 1 or to the notification requirements of Subsection A of this Section, when:

i. the sample is being transported to a laboratory for the purpose of testing; or

ii. the sample is being transported back to the sample collector after testing; or

iii. the sample is being stored by the sample collector before transport to a laboratory for testing; or

iv. the sample is being stored in a laboratory before testing; or

v. the sample is being stored in a laboratory after testing but before it is returned to the sample collector; or

vi. the sample is being stored temporarily in the laboratory after testing for a specific purpose (e.g., until conclusion of a court case or enforcement action where further testing of the sample may be necessary).

b. In order to qualify for the exemption in Subsection D.4.a.i-ii of this Section, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

i. comply with Louisiana Department of Public Safety (LDPS), U.S. Postal Service (USPS), or any other applicable shipping requirements; or

ii. comply with the following requirements if the sample collector determines that LDPS, USPS, or other shipping requirements do not apply to the shipment of the sample:

(a). assure that the following information accompanies the sample:

(i). the sample collector's name, mailing address,

and telephone number;

(ii). the laboratory's name, mailing address, and

telephone number;

(iii). the quantity of the sample;

(iv). the date of shipment; and

(v). a description of the sample; and

(b). package the sample so that it does not leak, spill, or vaporize from its packaging.

c. This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in Subsection D.4.a of this Section.

5. Treatability Study Samples

a. Except as provided in Subsection D.5.b of this Section, persons who

generate or collect samples for the purpose of conducting treatability studies as defined in LAC 33:V.109 are not subject to any requirement of LAC 33:V.Chapters 9, 11, 13, or 49, or to the notification requirements of Subsection A of this Section, nor are such samples included in the quantity determinations of LAC 33:V.3903-3915 and LAC 33:V.1109.E.7 when:

i. the sample is being collected and prepared for transportation by the generator or sample collector; or

ii. the sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

iii. the sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.

b. The exemption in Subsection D.5.a of this Section is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies, provided that:

i. the generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with nonacute hazardous waste, 1000 kg of nonacute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, or 2,500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream; and

ii. the mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with nonacute hazardous waste, or may include 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of hazardous waste, and 1 kg of acute hazardous waste; and

iii. the sample is packaged so that it will not leak, spill, or vaporize from its packaging during shipment, and the requirements of Subsection 105.D.5.b.iii.(a) or (b) of this Section are met.

(a). the transportation of each sample shipment complies with the shipping requirements of the LDPS and USPS, or any other applicable shipping requirements; or

(b). if the LDPS, the USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample:

(i). the name, mailing address, and telephone number of the originator of the sample;

(ii). the name, address, and telephone number of the facility that will perform the treatability study;

(iii). the quantity of the sample;

(iv). the date of shipment; and

(v). a description of the sample, including its EPA

Hazardous Waste Number;

iv. the sample is shipped to a laboratory or testing facility that is exempt under Subsection D.6 of this Section or has an appropriate LAC 33:V.Subpart 1 permit or interim status;

v. the generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:

(a). copies of the shipping documents;
(b). a copy of the contract with the facility conducting the treatability study; and

(c). documentation showing:
(i). the amount of waste shipped under this exemption;

(ii). the name, address, and EPA identification number of the laboratory or testing facility that received the waste;

(iii). the date the shipment was made; and
(iv). whether or not unused samples and residues were returned to the generator; and

vi. the generator reports the information required under Subsection D.5.b.v.(c) of this Section in its biennial report.

c. The administrative authority may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The administrative authority may grant requests on a case-by-case basis for quantity limits in excess of those specified in Subsection D.5.b.i and ii and 6.d of this Section for up to an additional 5,000 kg of media contaminated with nonacute hazardous waste, 500 kg of nonacute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, and 1 kg of acute hazardous waste:

i. in response to requests for authorization to ship, store, and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), the size of the unit undergoing testing (particularly in relation to scale-up considerations), the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations;

ii. in response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies when: there has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of a previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment; and

iii. the additional quantities and time frames allowed in Subsection D.5.c.i and ii of this Section are subject to all the provisions in Subsection D.5.a and b.iii - vi of this Section. The generator or sample collector must apply to the administrative authority and provide in writing the following information:

(a). the reason why the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;

(b). documentation accounting for all samples of hazardous

waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;

(c). a description of the technical modifications or change in specifications that will be evaluated and the expected results;

(d). if such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

(e). such other information that the administrative authority considers necessary.

6. Samples Undergoing Treatability Studies at Laboratories and Testing Facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to LAC 33:V.Subpart 1 requirements) are not subject to any requirement of LAC 33:V.Chapters 3, 5, 9, 11, 13, 15, 22, 41, and 43 or to the notification requirements of Subsection A of this Section, provided that the following conditions are met. A mobile treatment unit may qualify as a testing facility subject to Subsection D.6.a-k of this Section. Where a group of mobile treatment units are located at the same site, the limitations specified in Subsection D.6.a-k of this Section apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit:

a. no less than 45 days before conducting treatability studies, the facility notifies the administrative authority in writing that it intends to conduct treatability studies under this Subsection;

b. the laboratory or testing facility conducting the treatability study has an EPA identification number;

c. no more than a total of 10,000 kg of "as received" media contaminated with nonacute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, or 250 kg of other "as received" hazardous waste is subjected to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector;

d. the quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with nonacute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of nonacute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials (including nonhazardous solid waste) added to "as received" hazardous waste;

e. no more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a

particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility;

f. the treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste;

g. the facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:

i. the name, address, and EPA identification number of the generator or sample collector of each waste sample;

ii. the date shipment was received;

iii. the quantity of waste accepted;

iv. the quantity of "as received" waste in storage each day;

v. the date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;

vi. the date the treatability study was concluded; and

vii. the date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the EPA identification number;

h. the facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study;

i. the facility prepares and submits a report to the administrative authority by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

i. the name, address, and EPA identification number of the facility conducting the treatability studies;

ii. the types (by process) of treatability studies conducted;

iii. the names and addresses of persons for whom studies have been conducted (including their EPA identification numbers);

iv. the total quantity of waste in storage each day;

v. the quantity and types of waste subjected to treatability studies;

vi. when each treatability study was conducted; and

vii. the final disposition of residues and unused sample from each treatability study;

j. the facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under LAC 33:V.109.Hazardous Waste and, if so, are subject to LAC 33:V.Chapters 3, 5, 9, 11, 13, 15, 22, 41, 43, and 49, unless the residue and unused samples are returned to the sample originator under the Subsection D.5 of this Section exemption; and

k. the facility notifies the administrative authority by letter when the

facility is no longer planning to conduct any treatability studies at the site.

7. The following wastes are exempt from regulation under this Subpart, except as specified in LAC 33:V.Chapter 38, and therefore, are not fully regulated as hazardous waste. The wastes listed in this Section are subject to regulation under LAC 33:V.Chapter 38:

- a. batteries as described in LAC 33:V.3803;
- b. pesticides as described in LAC 33:V.3805; and
- c. thermostats as described in LAC 33:V.3807.

8. PCB Wastes Regulated Under Toxic Substance Control Act. PCB-containing dielectric fluid and electric equipment containing such fluid authorized for use and regulated by the United States Environmental Protection Agency under 40 CFR 761, and that are hazardous only because they fail the test for the toxicity characteristic (Hazardous Waste Numbers D018—D043 only) are exempt from regulation under LAC 33:V.Subpart 1.

* * *

[See Prior Text in E - J.2]

~~K. Procedures for Variances From Classification as a Solid Waste or to be Classified as a Boiler. The administrative authority will use the following procedures in evaluating applications for variances from classification as a solid waste or applications to classify particular enclosed flame combustion devices as boilers as provided in LAC 33:V.105.D: Variance to be Classified as a Boiler~~

~~1. The applicant must apply to the administrative authority. The application must address the relevant criteria contained in LAC 33:V.105.D.28, 29, 30 or 31, and LAC 33:V.105.H.2. Variance to be Classified as a Boiler. In accordance with the standards and criteria in LAC 33:V.109.Boiler and the procedures in Subsection K.2 of this Section, the administrative authority may determine on a case-by-case basis that certain enclosed devices using controlled flame combustion are boilers, even though they do not otherwise meet the definition of boiler contained in LAC 33:V.109 after considering the following criteria:~~

- ~~a. the extent to which the unit has provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and~~
- ~~b. the extent to which the combustion chamber and energy recovery are of integral design; and~~
- ~~c. the efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of the fuel; and~~
- ~~d. the extent to which exported energy is utilized; and~~
- ~~e. the extent to which the device is in common and customary use as a "boiler" functioning primarily to produce steam, heated fluids, or heated gases; and~~
- ~~f. other factors, as appropriate.~~

~~2. The administrative authority will evaluate the application and issue a draft notice tentatively granting or denying the application. Notification of this tentative decision will be provided by newspaper advertisement and/or radio broadcast in the locality where the recycler is located. The administrative authority will accept comment on the tentative decision for 30 days and may also hold a public hearing upon request or at his discretion. The administrative authority will issue a final decision after receipt of comments and after a hearing (if any) and this decision~~

~~may not be appealed to the administrative authority. Procedures for Variances From Classification as a Solid Waste or to be Classified as a Boiler. The administrative authority will use the following procedures in evaluating applications for variances from classification as a solid waste or applications to classify particular enclosed controlled flame combustion devices as boilers as provided in this Subsection:~~

~~a. the applicant must apply to the administrative authority. The application must address the relevant criteria contained in this Subsection; and~~

~~b. the administrative authority will evaluate the application and issue a draft notice tentatively granting or denying the application. Notification of this tentative decision will be provided by newspaper advertisement and/or radio broadcast in the locality where the recycler is located. The administrative authority will accept comment on the tentative decision for 30 days and may also hold a public hearing upon request or at his discretion. The administrative authority will issue a final decision after receipt of comments and after a hearing (if any).~~

~~L. Procedures for Case-By-Case Regulation of Hazardous Waste Recycling Activities. The administrative authority will use the following procedures when determining whether to regulate hazardous waste recycling activities described in LAC 33:V.4105.C.3 under the provisions of Subchapter A of LAC 33:V.Chapter 41, rather than under the provisions of Subchapter C of LAC 33:V.Chapter 41 of these regulations: Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis~~

~~1. If a generator is accumulating the waste, the administrative authority will issue a notice setting forth the factual basis for the decision and stating that the person must comply with the applicable requirements of LAC 33:V.1101, 1109.A, 1111.A, 1113.A.1 and 2. The notice will become final within 30 days, unless the person served requests a public hearing to challenge the decision. Upon receiving such a request, the administrative authority will hold a public hearing. The administrative authority will provide notice of the hearing to the public and allow public participation at the hearing. The administrative authority will issue a final order after the hearing stating whether or not compliance with LAC 33:V.Chapter 11 is required. The order becomes effective 30 days after service of the decision unless the administrative authority specifies a later date or unless review by the administrative authority is requested. The order may be appealed to the administrative authority by any person who participated in the public hearing. The administrative authority may choose to grant or to deny the appeal. Final department action occurs when a final order is issued and department review procedures are exhausted. Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis. The administrative authority may decide on a case-by-case basis that persons accumulating or storing the recyclable materials described in LAC 33:V.4105.C.4 should be regulated under Subchapter A of LAC 33:V.Chapter 41. The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained, or because the materials being accumulated or stored together are incompatible. In making this decision, the administrative authority will consider the following factors:~~

~~a. the types of materials accumulated or stored and the amounts accumulated or stored;~~

- b. the method of accumulation or storage;
- c. the length of time the materials have been accumulated or stored before being reclaimed;
- d. whether any contaminants are being released into the environment, or are likely to be so released; and
- e. other relevant factors.

2. ~~If the person is accumulating the recyclable material as a storage facility, the notice will state that the person must obtain a permit in accordance with all applicable provisions of these regulations. The owner or operator of the facility must apply for a permit within no less than 60 days and no more than 180 days of notice, as specified in the notice. If the owner or operator of the facility wishes to challenge the administrative authority's decision, he may do so in his permit application, in a public hearing held on the draft permit, or in comments filed on the draft permit or on the notice of intent to deny the permit. The fact sheet accompanying the permit will specify the reasons for the department's determination. The question of whether the administrative authority's decision was proper will remain open for consideration during the public comment period discussed under LAC 33:V.707 and in any subsequent hearing. Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities. The administrative authority will use the following procedures when determining whether to regulate hazardous waste recycling activities described in LAC 33:V.4105.C.3 under the provisions of Subchapter A of LAC 33:V.Chapter 41, rather than under the provisions of Subchapter C of LAC 33:V.Chapter 41 of these regulations:~~

a. if a generator is accumulating the waste, the administrative authority will issue a notice setting forth the factual basis for the decision and stating that the person must comply with the applicable requirements of LAC 33:V.1101, 1109.A, 1111.A, and 1113.A. The notice will become final within 30 days, unless the person served requests a public hearing to challenge the decision. Upon receiving such a request, the administrative authority will hold a public hearing. The administrative authority will provide notice of the hearing to the public and allow public participation at the hearing. The administrative authority will issue a final order after the hearing stating whether or not compliance with LAC 33:V.Chapter 11 is required. The order becomes effective 30 days after service of the decision unless the administrative authority specifies a later date or unless review by the administrative authority is requested. The order may be appealed to the administrative authority by any person who participated in the public hearing. The administrative authority may choose to grant or to deny the appeal. Final department action occurs when a final order is issued and department review procedures are exhausted; and

b. if the person is accumulating the recyclable material as a storage facility, the notice will state that the person must obtain a permit in accordance with all applicable provisions of these regulations. The owner or operator of the facility must apply for a permit within no less than 60 days and no more than 180 days of notice, as specified in the notice. If the owner or operator of the facility wishes to challenge the administrative authority's decision, he may do so in his permit application, in a public hearing held on the draft permit, or in comments filed on the draft permit or on the notice of intent to deny the permit. The fact sheet accompanying the permit will specify the reasons for the department's determination. The question

of whether the administrative authority's decision was proper will remain open for consideration during the public comment period discussed under LAC 33:V.707 and in any subsequent hearing.

* * *

[See Prior Text in M - N.5]

O. Variances from Classification as a Solid Waste

1. Variances from Classification as a Solid Waste. In accordance with the standards and criteria below, the administrative authority may determine on a case-by-case basis that the following recycled materials are not solid waste:

a. materials that are accumulated speculatively without sufficient amounts being recycled, as defined in LAC 33:V.109.

b. materials that are reclaimed and then reused within the original production process in which they were generated; and

c. materials that have been reclaimed, but must be reclaimed further before the materials are completely recovered.

2. Standards and Criteria for Variances from Classification as a Solid Waste

a. The administrative authority may grant requests for a variance from classifying as a solid waste those materials that are accumulated speculatively without sufficient amounts being recycled if the applicant demonstrates that sufficient amounts of the material will be recycled or transferred for recycling in the following year. If a variance is granted, it is valid only for the following year, but can be renewed, on an annual basis, by filing a new application. The administrative authority's decision will be based on the following criteria:

i. the manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to occur (e.g., because of past practice, market factors, the nature of the material, or contractual arrangements for recycling);

ii. the reason that the applicant has accumulated the material for one or more years without recycling 75 percent of the volume accumulated at the beginning of the year;

iii. the quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;

iv. the extent to which the material is handled to minimize loss; and

v. other related factors.

b. The administrative authority may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused as feedstock within the original primary production process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:

i. how economically viable the production process would be if it were to use virgin materials, rather than reclaimed materials;

ii. the prevalence of the practice on an industry-wide basis;

iii. the extent to which the material is handled before reclamation to minimize loss;

iv. the time periods between generating the material and its reclamation and between reclamation and return to the original primary production process;

v. the location of the reclamation operation in relation to the production process;

vi. whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;

vii. whether the person who generates the material also reclaims it;
and

viii. other relevant factors.

c. The administrative authority may grant requests for a variance from classifying as a solid waste those materials that have been reclaimed but must be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is commodity-like (even though it is not yet a commercial product, and has to be reclaimed further). This determination will be based on the following factors:

i. the degree of processing the material has undergone and the degree of further processing that is required;

ii. the value of the material after it has been reclaimed;

iii. the degree to which the reclaimed material is like an analogous raw material;

iv. the extent to which an end market for the reclaimed material is guaranteed;

v. the extent to which the reclaimed material is handled to minimize loss; and

vi. other relevant factors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid And Hazardous Waste, Hazardous Waste Division, LR 23:564 (May 1997), LR 23:567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:**.

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise:

* * *

[See Prior Text]

Accumulated Speculatively—a material is "accumulated speculatively" if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that—during the calendar year (commencing on January 1)—the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under LAC 33.V.105.D.203 are not to be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling, however.

* * *

[See Prior Text]

Boiler—an enclosed device using controlled flame combustion and having the following characteristics:

* * *

[See Prior Text in 1 - 1.c]

2. the unit is one which the administrative authority has determined, on a case-by-case basis, to be a boiler, after considering the standards in LAC 33:V.105.D.31K.

* * *

[See Prior Text]

Hazardous Waste—a solid waste, as defined in ~~LAC 33:V.109~~this Section, is a hazardous waste if:

1. it is not excluded from regulation as a hazardous waste under LAC 33:V.105.D.10-19, 33, or 43; and

2. it meets any of the following criteria:

a. it exhibits any of the characteristics of hazardous waste identified in LAC 33:V.4903, except that any mixture of a waste from the extraction, beneficiation, or processing of ores and minerals excluded under LAC 33:V.105.D.172.h and any other solid waste exhibiting a characteristic of hazardous waste under LAC 33:V.4903 is a hazardous waste only if it exhibits a characteristic that would not have been exhibited by the excluded waste alone if such mixture had not occurred; or if it continues to exhibit any of the characteristics exhibited by the nonexcluded wastes prior to mixture. Further, for the purposes of applying the Toxicity Characteristic to such mixtures, the mixture is also a hazardous waste if it exceeds the maximum concentration for any contaminant listed in LAC 33:V.4903.E.Table 5 that would not have been

exceeded by the excluded waste alone if the mixture had not occurred or if it continues to exceed the maximum concentration for any contaminant exceeded by the nonexempt waste prior to mixture;

b. it is listed in LAC 33:V.4901 and has not been excluded from the lists in LAC 33:V.4901 by the Environmental Protection Agency or the administrative authority;

c. it is a mixture of a solid waste and a hazardous waste that is listed in LAC 33:V.4901 solely because it exhibits one or more of the characteristics of hazardous waste identified in LAC 33:V.4903 unless the resultant mixture no longer exhibits any characteristic of hazardous waste identified in LAC 33:V.4903; or unless the solid waste is excluded from regulation under LAC 33:V.105.D.172.h and the resultant mixture no longer exhibits any characteristic of hazardous waste identified in LAC 33:V.4903 for which the hazardous waste listed in LAC 33:V.4901 was listed. (However, nonwastewater mixtures are still subject to the requirements of LAC 33:V.Chapter 22, even if they no longer exhibit a characteristic at the point of land disposal.);

d. it is a mixture of solid waste and one or more hazardous wastes listed in LAC 33:V.4901 and has not been excluded by EPA. from Paragraph 2 of this definition under LAC 33:V.105.D and M; however, the following mixtures of solid wastes and hazardous wastes listed in LAC 33:V.4901 are not hazardous wastes (unless they exhibit the characteristics of a hazardous waste in LAC 33:V.4903 or are listed in LAC 33:V.4901 except by application of Paragraph 2.a or b of this definition) if the generator can demonstrate that the mixture consists of wastewater excluded under LAC 33:V.4905.A., the discharge of which is subject to regulation under either section 402 or section 307(b) of the Clean Water Act (including wastewater at facilities which have eliminated the discharge of wastewater) and:

i. one or more of the following solvents listed in LAC 33:V.4901.B—carbon tetrachloride, tetrachloroethylene, trichloro-ethylene—provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed one part per million; or

ii. one or more of the following spent solvents listed in LAC 33:V.4901.B—methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents—provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 25 parts per million; or

iii. one of the following wastes listed in LAC 33:V.4901.C—heat exchanger bundle cleaning sludge from the petroleum refining industry (EPA Hazardous Waste Number K050); or

iv. a discarded commercial chemical product or chemical intermediate listed in LAC 33:V.4901.D and E arising from de minimis losses of these materials from manufacturing operations in which these materials are used as raw materials or are produced

in the manufacturing process. For purposes of this Clause, "de minimis" losses include those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers rendered empty by that rinsing; or

v. wastewater resulting from laboratory operations containing toxic (T) wastes listed in LAC 33:V.4901, provided that the annualized average flow of laboratory wastewater does not exceed one percent of total wastewater flow into the headworks of the facility's wastewater treatment or pretreatment system, or provided the wastes' combined annualized average concentration does not exceed one part per million in the headworks of the facility's wastewater treatment or pretreatment facility. Toxic (T) wastes used in laboratories that are demonstrated not to be discharged to wastewater are not to be included in this calculation; or

vi. one or more of the following wastes listed in LAC 33:V.4901.C—wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K157)—provided that the maximum weekly usage of formaldehyde, methyl chloride, methylene chloride, and triethylamine (including all amounts that cannot be demonstrated to be reacted in the process, destroyed through treatment, or are recovered, i.e., what is discharged or volatilized) divided by the average weekly flow of process wastewater prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of five parts per million by weight; or

vii. wastewaters derived from the treatment of one or more of the following wastes listed in LAC 33:V.4901.C—organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K156)—provided that the maximum concentration of formaldehyde, methyl chloride, methylene chloride, and triethylamine prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of five milligrams per liter; and

e. Rebuttable Presumption for Used Oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in LAC 33:V.4901. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, e.g., by using an analytical method from LAC 33:V.Chapter 49.Appendix A to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in LAC 33:V.3105.Table 1).

i. The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling agreement, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner or disposed.

ii. The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs

are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

3. A solid waste which is not excluded from regulation under LAC 33:V.105. D .10-19, 33, or 43 becomes a hazardous waste when any of the following events occur:

- a. in the case of a waste listed in LAC 33:V.4901, when the waste first meets the listing description set forth in LAC 33:V.4901;
- b. in the case of a mixture of solid waste and one or more listed hazardous wastes, when a hazardous waste listed in LAC 33:V.4901 is first added to the solid waste; and
- c. in the case of any other waste (including a waste mixture), when the waste exhibits any of the characteristics identified in LAC 33:V.4903.

4. ~~Unless and until a hazardous waste no longer exhibits the characteristics of a hazardous waste identified in LAC 33:V.4903; or in the case of a waste which is listed under LAC 33:V.4901, contains a waste listed in LAC 33:V.4901, or is derived from a waste listed in LAC 33:V.4901, unless and until it also has been excluded from the lists in LAC 33:V.4901 as a hazardous waste by the Environmental Protection Agency, a hazardous waste will remain a hazardous waste.~~ meets the criteria of Paragraph 5 of this definition:

a. a hazardous waste will remain a hazardous waste;

5. ~~b.~~ i. Except as otherwise provided in ~~LAC 33:V.105.D.33 Paragraph 4.b.ii of this definition,~~ any solid waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust, or leachate (but not including precipitation runoff) is a hazardous waste. (However, materials that are reclaimed from solid waste and that are used beneficially are not solid wastes and hence are not hazardous wastes under this provision unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.)

ii. The following solid wastes are not hazardous even though they are generated from the treatment, storage, or disposal of hazardous waste, unless they exhibit one or more of the characteristics of hazardous wastes:

(a). waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC codes 331 and 332);

(b). waste from burning any of the materials exempted from regulation by LAC 33:V.4105.B.1 - 12;

(c). (i). nonwastewater residues, such as slag, resulting from high-temperature metals recovery (HTMR) processing of K061, K062, or F006 waste, in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations, or industrial furnaces (as defined in Industrial Furnace, Paragraphs 6, 7 and 13, in this Section), that are disposed of in subtitle D units, provided that these residues meet the generic exclusion levels identified in Tables A and B of this definition for all constituents and exhibit no characteristics of hazardous waste. Testing requirements must be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues must be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming this exclusion in an enforcement action will have the burden of

proving, by clear and convincing evidence, that the material meets all of the exclusion requirements.

Table A

<u>Generic Exclusion Levels for K061 and K062 Nonwastewater HTMR Residues</u>	
<u>Constituent</u>	<u>Maximum for any Single Composite Sample-TCLP (mg/l)</u>
<u>Antimony</u>	<u>0.10</u>
<u>Arsenic</u>	<u>0.50</u>
<u>Barium</u>	<u>7.6</u>
<u>Beryllium</u>	<u>0.010</u>
<u>Cadmium</u>	<u>0.050</u>
<u>Chromium (total)</u>	<u>0.33</u>
<u>Lead</u>	<u>0.15</u>
<u>Mercury</u>	<u>0.009</u>
<u>Nickel</u>	<u>1.0</u>
<u>Selenium</u>	<u>0.16</u>
<u>Silver</u>	<u>0.30</u>
<u>Thallium</u>	<u>0.020</u>
<u>Zinc</u>	<u>70</u>

Table B

<u>Generic Exclusion Levels for F006 Nonwastewater HTMR Residues</u>	
<u>Constituent</u>	<u>Maximum for any Single Composite Sample-TCLP (mg/l)</u>
<u>Antimony</u>	<u>0.10</u>
<u>Arsenic</u>	<u>0.50</u>
<u>Barium</u>	<u>7.6</u>

<u>Constituent</u>	<u>Maximum for any Single Composite Sample-TCLP (mg/l)</u>
<u>Beryllium</u>	<u>0.010</u>
<u>Cadmium</u>	<u>0.050</u>
<u>Chromium (total)</u>	<u>0.33</u>
<u>Cyanide (total) (mg/kg)</u>	<u>1.8</u>
<u>Lead</u>	<u>0.15</u>
<u>Mercury</u>	<u>0.009</u>
<u>Nickel</u>	<u>1.0</u>
<u>Selenium</u>	<u>0.16</u>
<u>Silver</u>	<u>0.30</u>
<u>Thallium</u>	<u>0.020</u>
<u>Zinc</u>	<u>70</u>

(ii). A one-time notification and certification must be placed in the facility's files and sent to the administrative authority for K061, K062, or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to subtitle D units. The notification and certification that is placed in the generators' or treaters' files must be updated if the process or operation generating the waste changes and/or if the subtitle D unit receiving the waste changes. However, the generator or treater needs only to notify the administrative authority on an annual basis if such changes occur. Such notification and certification should be sent to the EPA region or authorized state by the end of the calendar year, but no later than December 31. The notification must include the following information:

- [a]. the name and address of the subtitle D unit receiving the waste shipments;
- [b]. the EPA hazardous waste number(s) and treatability group(s) at the initial point of generation; and
- [c]. the treatment standards applicable to the waste at the initial point of generation; and
- [d]. the certification must be signed by an authorized representative and must state as follows:

"I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of hazardous waste is exhibited.

I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

d. Biological treatment sludge from the treatment of one of the following wastes listed in LAC 33:V.4901.C—organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K156), and wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K157).

65. Any solid waste described in ~~LAC 33:V.105.D.33 or 109.Hazardous Waste.5~~ Paragraph 4 of this definition is not a hazardous waste if it meets the following criteria:

a. in the case of any solid waste, it does not exhibit any of the characteristics of hazardous waste identified in LAC 33:V.4903. (However, wastes that exhibit a characteristic at the point of generation may still be subject to the requirements of LAC 33:V.Chapter 22, even if they no longer exhibit a characteristic at the point of land disposal);

b. in the case of a waste which is a listed waste under LAC 33:V.4901, contains a waste listed under LAC 33:V.4901 or is derived from a waste listed in LAC 33:V.4901, and it also has been excluded from ~~LAC 33:V.105.D.33 or 109.Hazardous Waste.5~~ Paragraph 4 of this definition under LAC 33:V.105.H and M.

76. Notwithstanding ~~LAC 33:V.105.D and Hazardous Waste~~, as defined in LAC 33:V.109 Paragraphs 1 - 4 of this definition and provided the debris as defined in LAC 33:V.Chapter ~~222203~~ does not exhibit a characteristic identified at LAC 33:V.4903.B) E, the following materials are not subject to regulation under LAC 33:V.Subpart 1:

a. hazardous debris as defined in LAC 33:V.Chapter ~~222203~~ that has been treated using one of the required extraction or destruction technologies specified in LAC 33:V.Chapter 22.Appendix, Table 8. Persons claiming this exclusion in an enforcement action will have the burden of proving, by clear and convincing evidence, that the material meets all of the exclusion requirements; or

b. debris as defined in LAC 33:V.Chapter ~~222203~~ that the administrative authority, considering the extent of contamination, has determined is no longer contaminated with hazardous waste.

* * *

[See Prior Text]

Solid Waste—

1. a. any discarded material that is not excluded by LAC 33:V.105.D.24, 34, 35, or 36.d or that is not excluded by a variance granted under LAC 33:V.105.DQ.

b. A discarded material is any material which is:

i. abandoned as explained in Paragraph 2 of this definition;

ii. recycled as explained in Paragraph 3 of this definition; or

iii. considered inherently waste-like, as explained ~~below~~ in

Paragraph 4 of this definition.

2. Materials are solid waste if they are abandoned by being:

a. disposed of; or

b. burned or incinerated; or

c. accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated.

3. Materials are solid wastes if they are recycled—or accumulated, stored, or treated before recycling—as specified in ~~this Paragraph 3.a - d of this definition and detailed below:~~

a. used in a manner constituting disposal:

i. ~~M~~materials noted with an "*" in ~~C~~column 1 of Table 1 in this Chapter are solid wastes when they are:

(a). applied to or placed on the land in a manner that constitutes disposal; or

(b). used to produce products that are applied to or placed on the land (in which cases the product itself remains a solid waste);

ii. ~~H~~however, commercial chemical products listed in LAC 33:V.4901.D and E are not solid wastes if they are applied to the land and that is their ordinary manner of use;

b. burning for energy recovery;

i. ~~M~~materials noted with an "*" in column 2 of Table 1 in this Chapter are solid wastes when they are: ~~burned to recover energy;~~ used to produce a fuel; ~~or otherwise contained in fuels (in which case the fuel itself remains a solid waste);~~

ii. ~~H~~however, commercial chemical products listed in LAC 33:V.4901.D and E are not solid wastes if they are themselves fuels;

c. reclaimed—materials noted with an "*" in column 3 of Table 1 in this Chapter are solid wastes when reclaimed;

d. accumulated speculatively—materials noted with an "*" in column 4 of Table 1 in this Chapter are solid wastes when accumulated speculatively.

4. ~~i~~nherently ~~w~~aste-~~l~~ike ~~m~~aterials. ~~—t~~he following materials are solid wastes when they are recycled in any manner:

a. Hazardous Waste Numbers F020, F021 (unless used as an ingredient to make a product at the site of generation), F022, F023, F026, and F028;

b. secondary materials fed to a halogen acid furnace that exhibit a characteristic of a hazardous waste or are listed as a hazardous waste as defined in LAC 33:V.4901 or 4903, except for brominated material that meets the following criteria:

i. the material must contain a bromine concentration of at least 45 percent;

ii. the material must contain less than a total of one percent of toxic organic compounds listed in LAC 33:V.3105.Table 1; and

iii. the material is processed continually on-site in the halogen acid furnace via direct conveyance (hard piping); ~~and~~

c. the administrative authority will use the following criteria to add wastes to that list:

i. the materials are ordinarily disposed of, burned, ~~or~~ incinerated;

or

ii. the materials contain toxic constituents listed in Table 1 of LAC 33:V.Chapter 31 and these constituents are not ordinarily found in raw materials or products for which the materials substitute (or are found in raw materials or products in smaller concentrations) and are not used or reused during the recycling process; and

iii. the material may pose a substantial hazard to human health and the environment when recycled.

5. ~~m~~Materials that are not ~~s~~Solid ~~w~~Waste when ~~r~~Recycled:

a. ~~m~~Materials are not solid wastes when they can be shown to be recycled by being:

i. used or reused as ingredients in an industrial process to make a product, provided the materials are not being reclaimed; or

ii. used or reused as effective substitutes for commercial products;

or

iii. returned to the original process from which they are generated, without first being reclaimed or land disposed. The material must be returned as a substitute for feedstock materials. In cases where the original process to which the material is returned is a secondary process, the materials must be managed such that there is no placement on land.

b. ~~t~~The following materials are solid wastes, even if the recycling involves use, reuse, or return to the original process (described in preceding paragraphs of this ~~Section~~definition):

i. materials used in a manner constituting disposal, or used to produce products that are applied to the land; or

ii. materials burned for energy recovery, used to produce a fuel, or otherwise contained in fuels; or

c. ~~m~~Materials accumulated speculatively; or

d. ~~i~~Inherently waste-like materials listed in ~~LAC 33:V.109.Solid Waste~~Paragraph 4 of this definition.

6. ~~r~~Respondents in actions to enforce regulations who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

TABLE 1				
	Use Constituting Disposal (1)	Energy recovery/fuel (2)	Reclamation (3)	Speculative Accumulation (4)
Spent Materials	*	*	*	*
Sludges (listed in LAC 33:V.4901)	*	*	*	*
Sludges exhibiting a characteristic of hazardous waste	*	*	*
By-products (listed in LAC 33:V.4901)	*	*	*	*
By-products exhibiting a characteristic of hazardous waste	*	*	*
Commercial chemical products listed in LAC 33:V.4901.E and F	*	*	
Scrap Metal	*	*	*	*

* * *

[See Prior Text]

Treatability Study—a study in which a hazardous waste is subjected to a treatment process to determine:

1. a. whether the waste is amenable to the treatment process;:
2. b. what pretreatment (if any) is required;:
3. c. the optimal process conditions needed to achieve the desired treatment;:
4. d. the efficiency of a treatment process for a specific waste or wastes;: or
5. e. the characteristics and volumes of residuals from a particular treatment

process.

2. Also included in this definition for the purpose of the LAC 33:V.105.D.37~~and 385~~ and 6 exemptions are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A "treatability study" is not a means of commercially treating or disposing of hazardous waste.

* * *

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:47 (January 1990), LR 16:218 (March 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

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ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—Hazardous Waste
Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits
§305. Scope of the Permit

* * *

[See Prior Text in A -C.2]

3. farmers who dispose of hazardous waste pesticides from their own use as provided in LAC 33:V.105.D.51101.D;

* * *

[See Prior Text in C.4 -G.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

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ENVIRONMENTAL QUALITY
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Chapter 5. Permit Application Contents

Subchapter E. Specific Information Requirements

§525. Specific Part II Information Requirements for Surface Impoundments

Except as otherwise provided in LAC 33:V.~~105.D~~ and 1501 and ~~305.B and C~~, owners and operators of facilities that treat, store, or dispose of hazardous waste in surface impoundments must provide the following additional information:

* * *

[See Prior Text in A - J.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 16:220 (March 1990), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

§527. Specific Part II Information Requirements for Waste Piles

Except as otherwise provided in LAC 33:V.~~105.D~~, 1501, and ~~LAC 33:V.305.B and C~~, owners and operators of facilities that treat or store hazardous waste in waste piles must provide the following additional information:

* * *

[See Prior Text in A - J.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 16:220 (March 1990), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

§531. Specific Part II Information Requirements for Land Treatment Facilities

Except as otherwise provided in LAC 33:V.~~105.D~~, 1501, and ~~305.B and C~~, owners and operators of facilities that use land treatment to dispose of hazardous waste must provide the following additional information:

* * *

[See Prior Text in A - H.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended

LR 10:280 (April 1984), LR 16:220 (March 1990), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

§533. Specific Part II Information Requirements for Landfills

Except as otherwise provided in LAC 33:V.105.D, 1501, and 305.B and C, owners and operators of facilities that dispose of hazardous waste in landfills must provide the following additional information:

* * *

[See Prior Text in A - J.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 16:220 (March 1990), LR 21:266 (March 1995), LR 21:944(September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Title 33**ENVIRONMENTAL QUALITY****Part V. Hazardous Waste and Hazardous Materials****Subpart 1. Department of Environmental Quality—Hazardous Waste****Chapter 11. Generators****§1101. Applicability**

* * *

[See Prior Text in A - C]

~~D. A farmer who generates waste pesticides which are hazardous waste and who complies with all of the requirements of LAC 33:V.105.D.5 is not required to comply with other standards in this Chapter or LAC 33:V.Subpart 1 with respect to such pesticides. A farmer disposing of waste pesticides from his own use which are hazardous wastes is not required to comply with the standards in this Chapter or other standards in the LAC 33:V.Chapters 3, 5, 7, 9, 15, 17, 19, 21, 23, 25, 27, 28, 29, 31, 32, 33, 35, 37, and 43 for those wastes, provided he triple rinses each emptied pesticide container in accordance with the provisions of LAC 33:V.109.Empty Container.3 and disposes of the pesticide residues in a manner consistent with the disposal instructions on the pesticide label.~~

* * *

[See Prior Text in E - G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:398 (May 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 22:20 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

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ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
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Chapter 15. Treatment, Storage, and Disposal Facilities
§1501. Applicability

* * *

[See Prior Text in A - C.2]

3. ~~the owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in LAC 33:V.109 provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory) or corrosive (D002) waste to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in LAC 33:V.1517.B~~Reserved;

4. ~~a farmer disposing of waste pesticides from his own use as provided in LAC 33:V.105.D.5~~1101.D;

* * *

[See Prior Text in C.5 - 11.c]

D. The requirements of this Chapter apply to owners or operators of all facilities which treat, store, or dispose of hazardous wastes referred to in LAC 33:V.Chapter 22.

E. The requirements of this Chapter apply to a person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries Act only to the extent they are included in a RCRA permit by rule granted to such a person under LAC 33:V.305.D.

F. The requirements of this Chapter apply to a person disposing of hazardous waste by means of underground injection subject to a permit issued under an Underground Injection Control (UIC) program approved or promulgated under the Safe Drinking Water Act only to the extent they are required by 40 CFR 144.14.

G. The requirements of this Chapter apply to the owner or operator of a POTW which treats, stores, or disposes of hazardous waste only to the extent they are included in a RCRA permit by rule granted to such a person under LAC 33:V.305.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

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Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 19. Tanks

§1901. Applicability

The requirements of this Chapter apply to owners and operators of facilities that use tank systems for storing or treating hazardous waste except as otherwise provided in Subsections A and B of this Section or LAC 33:V.105.D1501.

* * *

[See Prior Text in A - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 22:819 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 21. Containers

§2101. Applicability

The regulations in this Chapter apply to owners and operators of all hazardous waste facilities that store containers of hazardous waste, except as specified in LAC 33:V.105-~~1501~~1501, or if the container is empty (see LAC 33:V.109).

* * *

[See Prior Text in A - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2201. Purpose, Scope, and Applicability

* * *

[See Prior Text in A - I]

1. waste pesticides that a farmer disposes of in accordance with LAC

33:V.105.D.51101.D;

* * *

[See Prior Text in I.2 - 5.c]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:398 (May 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 23. Waste Piles

§2301. Applicability

A. The regulations in this Subpart apply to owners and operators of facilities that store or treat hazardous waste in piles, except as specified in LAC 33:V.105.1501.

* * *

[See Prior Text in B - C.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 25. Landfills

§2501. Applicability

The regulations in this Chapter apply to owners and operators of facilities that dispose of hazardous waste in landfills, except as specified in LAC 33:V.105.D1501.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 27. Land Treatment

§2701. Applicability

The regulations in this Chapter apply to owners and operators of facilities that treat or dispose of hazardous waste in land treatment units, except as LAC 33:V.405.D1501 provides otherwise.

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HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 29. Surface Impoundments

§2901. Applicability

The regulations in this Subpart apply to owners and operators of facilities that use surface impoundments to treat, store, or dispose of hazardous waste except as LAC 33:V.105.D1501 provides otherwise.

[Comment: All surface impoundments used to store hazardous waste, including short-term storage (90 days or less), must have a TSD permit.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3025. Regulation of Residues

A residue derived from the burning or processing of hazardous waste in a boiler or industrial furnace is not excluded from the definition of a hazardous waste under LAC 33:V.105.D.2.d, h, and i unless the device and the owner or operator meet the following requirements:

* * *

[See Prior Text in A - A.1]

2. Ore or Mineral Furnaces. Industrial furnaces subject to LAC 33:V.105.D.2.h must process at least 50 percent by weight normal, nonhazardous raw materials;

* * *

[See Prior Text in A.3 - C.2.b]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:826 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 35. Closure and Post-closure

§3501. Applicability

* * *

[See Prior Text in A]

B. Except as LAC 33:V.405-D1501 provides otherwise, LAC 33:V.3503—3517 (which concern closure) apply to all hazardous waste facilities in operation or under construction as of the effective date of LAC 33:V.Subpart 1 and to all hazardous waste facilities permitted under LAC 33:V.Subpart 1, as applicable.

* * *

[See Prior Text in C - C.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Title 33**ENVIRONMENTAL QUALITY****Part V. Hazardous Waste and Hazardous Materials****Subpart 1. Department of Environmental Quality—Hazardous Waste****Chapter 38. Universal Wastes****Subchapter A. General****§3801. Scope and Applicability**

* * *

[See Prior Text in A]

B. Persons managing household wastes that are exempt under LAC 33:V.105.D.~~102.a~~ and are also of the same type as the universal wastes as defined in this Chapter may, at their option, manage these wastes under the requirements of this Chapter.

* * *

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

§3805. Applicability - Pesticides

* * *

[See Prior Text in A - B]

1. recalled pesticides described in Subsection A.1 of this Section, and unused pesticide products described in Subsection A.2 of this Section, that are managed by farmers in compliance with LAC 33:V. ~~105-D-51101.D~~ (LAC 33:V.~~105-D-51101.D~~ addresses pesticides disposed of on the farmer's own farm in a manner consistent with the disposal instructions on the pesticide label, providing the container is triple rinsed in accordance with the definition of empty container under LAC 33:V.109);

* * *

[See Prior Text in B.2 - D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:569 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Title 33**ENVIRONMENTAL QUALITY****Part V. Hazardous Waste and Hazardous Materials****Subpart 1. Department of Environmental Quality) Hazardous Waste****Subchapter A. Materials Regulated as Used Oil****Chapter 40. Used Oil****§4003. Applicability**

This Section identifies those materials which are subject to regulation as used oil under this Chapter. This Section also identifies some materials that are not subject to regulation as used oil under this Chapter and indicates whether these materials may be subject to regulation as hazardous waste under this Subpart.

* * *

[See Prior Text in A - E.1.a]

b. not solid wastes and, thus, are not subject to the hazardous waste regulations of LAC 33:V.Subpart 1 as provided in LAC 33:V.~~405.D~~ 109.Hazardous Waste.4.b.i.

* * *

[See Prior Text in E.2 - I]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended LR 22:836 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Title 33**ENVIRONMENTAL QUALITY****Part V. Hazardous Waste and Hazardous Materials****Subpart 1. Department of Environmental Quality—Hazardous Waste****Chapter 41. Recyclable Materials****§4105. Requirements for Recyclable Material**

Recyclable materials are subject to additional regulations as follows:

* * *

[See Prior Text in A - B.4]

5. ~~sludges exhibiting a characteristic of hazardous waste which are reclaimed;~~Reserved

6. ~~by-products exhibiting a characteristic of hazardous waste which are reclaimed;~~or Reserved

* * *

[See Prior Text in B.7]

8. fuels produced from the refining of oil-bearing hazardous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining production, and transportation practices (this exemption does not apply to fuels produced from oil recovered from oil-bearing hazardous waste, where such recovered oil is already excluded under LAC 33:V.105.D.43-~~g~~1);

* * *

[See Prior Text in B.9 - F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:219 (March 1990), LR 17:362 (April 1991), repromulgated LR 18:1256 (November 1992), amended LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), LR 23:579 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Title 33**ENVIRONMENTAL QUALITY****Part V. Hazardous Waste and Hazardous Materials****Subpart 1. Department of Environmental Quality — Hazardous Waste****Chapter 43. Interim Status****Subchapter A. General Facility Standards****§4307. Applicability**

The regulations of LAC 33:V.Chapter 43 apply to owners and operators of all hazardous waste facilities except as ~~LAC 33:V.105-D~~ and LAC 33:V.1501-E provides otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Subchapter C. Contingency Plan and Emergency Procedures**§4337. Applicability**

The regulations of this Subchapter apply to owners and operators of all hazardous waste facilities except as provided in LAC 33:V.~~105-D~~1501.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Subchapter D. Manifest System, Recordkeeping, and Reporting**§4351. Applicability**

The regulations in this Subchapter apply to owners and operators of both on-site and off-site facilities, except as LAC 33:V.~~105-D~~1501 provides otherwise. LAC 33:V.4353, 4355, and 4363 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Subchapter F. Closure and Post-closure**§4377. Applicability**

Except as LAC 33:V.~~105-D~~1501 provides otherwise:

* * *

[See Prior Text in A - B.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office

of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 16:219 (March 1990), LR 16:614 (July 1990), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Subchapter G. Financial Requirements

§4397. Applicability

A. The requirements of LAC 33:V.3719, 4401, 4403, 4411, and 4413 apply to owners and operators of all hazardous waste facilities, except as provided otherwise in this Section or in LAC 33:V.~~405-D~~1501.

* * *

[See Prior Text in B - C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 13:651 (November 1987), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Subchapter J. Surface Impoundments

§4447. Applicability

The regulations in this Subchapter apply to owners and operators of facilities that use surface impoundments to treat, store, or dispose of hazardous waste, except as LAC 33:V.~~405-D~~1501 provides otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Subchapter K. Waste Piles

§4463. Applicability

The regulations in this Subchapter apply to owners and operators of facilities that treat or store hazardous waste in piles, except as LAC 33:V.~~405-D~~1501 provides otherwise. Alternatively, a pile of hazardous waste may be managed as a landfill under LAC 33:V.Chapter 43, Subchapter M.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Subchapter L. Land Treatment

§4477. Applicability

The regulations in this Subchapter apply to owners and operators of hazardous waste land treatment facilities with interim status, except as LAC 33:V.~~405-D~~1501 provides otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Subchapter M. Landfills

§4495. Applicability

The regulations in this Subchapter apply to owners and operators of facilities that dispose of hazardous waste in landfills, except as LAC 33:V.~~105:1501~~ provides otherwise. A waste pile used as a disposal facility is a landfill and is governed by this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Subchapter O. Thermal Treatment

§4523. Applicability

The regulations in this Subpart apply to owners or operators of facilities that thermally treat hazardous waste in devices other than enclosed devices using controlled flame combustion, except as LAC 33:V.~~105:1501~~ provides otherwise. Thermal treatment in enclosed devices using controlled flame combustion is subject to the requirements of LAC 33:V.Chapter 31 and Subchapter N of LAC 33:V.Chapter 43 if the unit is an incinerator, and LAC 33:V.Chapter 30, if the unit is a boiler or an industrial furnace as defined in LAC 33:V.109.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:**.

Subchapter P. Chemical, Physical, and Biological Treatment

§4535. Applicability

The regulations in this Subchapter apply to owners and operators of facilities which treat hazardous wastes by chemical, physical, or biological methods in other than tanks, surface impoundments, and land treatment facilities, except as LAC 33:V.~~105:1501~~ provides otherwise. Chemical, physical, and biological treatment of hazardous waste in tanks, surface impoundments, and land treatment facilities must comply with the requirements of LAC 33:V.Chapter 43, Subchapters I, J, and L, respectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 18:723 (July 1992), amended by the Office of Waste Services,

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HW063*

Hazardous Waste Division, LR 24:**.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 49. Lists of Hazardous Wastes

Editor's Note: The Text in 4905 has been moved to LAC 33:V.109.Hazardous Waste.2.d.

§4905. Exclusions for Wastewaters~~Repealed~~

~~_____ A. The following mixtures of solid wastes and hazardous wastes listed in LAC 33:V.4901 are not hazardous wastes (except by application of LAC 33:V.4903) if the generator can demonstrate that the mixture consists of wastewater, the discharge of which is subject to regulation under either section 402 or section 307(b) of the Clean Water Act (including wastewater at facilities which have eliminated the discharge of wastewater), and:~~

~~_____ 1. one or more of the following spent solvents listed in LAC 33:V.4901.A—carbon tetrachloride, tetrachloroethylene, trichloro-ethylene—provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed one part per million; or~~

~~_____ 2. one or more of the following spent solvents listed in LAC 33:V.4901.A—methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents—provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 25 parts per million and provided that the generator uses due care as a prudent operator to minimize the amount of these substances entering the wastewater treatment system; or~~

~~_____ 3. one of the following wastes listed in LAC 33:V.4901.B—heat exchanger bundle cleaning sludge from the petroleum refining industry (EPA hazardous waste number K-050); or~~

~~_____ 4. a discarded commercial chemical product or chemical intermediate listed in LAC 33:V.4901.D and E arising from de minimis losses of these materials from manufacturing operations in which these materials are used as raw materials or are produced in the manufacturing process. For purposes of this Paragraph, "de minimis" losses include those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers; or leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings, relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers rendered empty by that rinsing;~~

~~_____ 5. wastewater resulting from laboratory operations containing toxic (T) wastes listed in LAC 33:V.4901 provided that the annualized average flow of laboratory wastewater does~~

~~not exceed one percent of total wastewater flow into the headworks of the facility's wastewater treatment or pre-treatment system, or provided the wastes, combined annualized average concentration does not exceed one part per million in the headworks of the facility's wastewater treatment or pre-treatment facility. Toxic (T) wastes used in laboratories that are demonstrated not to be discharged to wastewater are not to be included in this calculation.~~

~~6. one or more of the following wastes listed in LAC 33:V.4901.C, wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K157), provided that the maximum weekly usage of formaldehyde, methyl chloride, methylene chloride, and triethylamine (including all amounts that cannot be demonstrated to be reacted in the process, destroyed through treatment, or recovered, i.e., what is discharged or volatilized) divided by the average weekly flow of process wastewater prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of five parts per million by weight; or~~

~~7. wastewaters derived from the treatment of one or more of the following wastes listed in LAC 33:V.4901.C, organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K156); provided that the maximum concentration of formaldehyde, methyl chloride, methylene chloride, and triethylamine prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of five milligrams per liter.~~

~~B. If the discharge under LAC 33:V.4905.A.1-E.5 is into a system not owned by the generator, approval by the owner for the discharge is required.~~

~~1. Except for laboratory wastes in LAC 33:V.4905.A.5, no waste previously separated shall be intentionally added to the wastewater for disposal.~~

~~2. The administrative authority may require analysis of a monthly grab sample indicative of the materials and hazardous degradation products for the materials covered in LAC 33:V.4905.A.1 and 2 if not covered in the water discharge permit.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 14:791 (November 1988), LR 15:182 (March 1989), LR 18:723 (July 1992), repealed by the Office of Waste Services, Hazardous Waste Division, LR 24:**.